

FILED

JUL 28 2020

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY BH DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

Darron Fair,
Plaintiff,

Vs.

Case No. CIV-20-741-SLP

- 1) Director of Oklahoma Department of
Corrections Scott Crow,
- 2) Warden of Northeast Oklahoma
Correctional Center Casey Hamilton,
- 3) Officer Blackward,
- 4) Officer Albert Everett,
- 5) Crystal Wise,
- 6) Kim Palmer,
- 7) Sgt. Greene,
- 8) Lt. Gole,
- 9) Sgt. Jordan,

COMPLAINT

I. Jurisdiction is asserted pursuant to :

X 42 U.S.C section 1983 and 28 U.S.C section 1343 (a)(3) (NOTE: these provisions generally apply to state prisoners), or

 Bivens v. Six Unkown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), and 28 U.S.C. section 1331 (NOTE: these provisions generally apply to federal prisoners)

X Jurisdiction also is invoked pursuant to U.S.C. section 1343 (a) (3). 8th, 14th Amendments of The United States Constitution

II. State whether you are a:

- ☒ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Pretrial detainee
☐ Immigration detainee
☐ Civilly committed detainee
☐ Other

III. Previous Federal Civil Actions or Appeals

List each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility.

1. Prior Civil Action/ Appeal No.1

a) Parties to Previous lawsuit:

Plaintiff(s): None

Defendants(s): None

b) Court and docket number: None

c) Approximate date of filing: None

d) Issues raised: None

e) Disposition (for example: Did you win? Was the case dismissed? Was summary judgment entered against you? Is the cas still pending? Did you appeal?):

None

f) Approximate date of disposition:

None

IV. Parties to Current Lawsuit

1. Plaintiff

Name anad any aliases: Darron Fair

Address: Joseph Harp Correctional Center – P.O.Box 548 Lexington, oklahoma - 73051

Inmate No.: 667614

2. Defendant No. 2

Name and official position: Scott Crow – Director

Place of employment and/ or residence: Oklahoma Department of Corrections

How is this person sued? () official capacity, () individual capacity, (X) both

3. Defendant No. 3

Name and official position: Casey Hamilton - Warden

Place of employment and/ or residence: Northeast Oklahoma Correctional Center

How is this person sued? () official capacity, () individual capacity, (X) both

4. Defendant No. 4

Name and official position: Blackward – Transportation Officer

Place of employment and/ or residence: Oklahoma Department of Corrections

How is this person sued? () official capacity, () individual capacity, (X) both

5. Defendant No. 5

Name and official position: Albert Everett – Property Officer

Place of employment and/ or residence: Northeast Oklahoma Correctional Center

How is this person sued? () official capacity, () individual capacity, (X) both

6. Defendant No. 6

Name and official position: Crystal Wise – Warden’s Designee

Place of employment and/ or residence: Northeast Oklahoma Correctional Center

How is this person sued? () official capacity, () individual capacity, (X) both

7. Defendant No. 7

Name and official position: Kim Palmer – Case Manager

Place of employment and/ or residence: Northeast Oklahoma Correctional Center

How is this person sued? () official capacity, () individual capacity, (X) both

8. Defendant No. 8

Name and official position: Jordan – Sgt. Unit Supervisor

Place of employment and/ or residence: Northeast Oklahoma Correctional Center

How is this person sued? () official capacity, () individual capacity, (X) both

9. Defendant No. 9

Name and official position: Gole – Lt. Shift Supervisor

Place of employment and/ or residence: Northeast Oklahoma Correctional Center

How is this person sued? () official capacity, () individual capacity, (X) both

10. Defendant No. 10

Name and official position: Greene – Sgt. Security Threat Group (STG) Administrator

Place of employment and/ or residence: Northeast Oklahoma Correctional Center

How is this person sued? () official capacity, () individual capacity, (X) both

V. Cause of Action \ Nature of Case

- 1) I allege that the following of my Constitutional Rights, Privileges or immunities have been violated and that the following facts form the basis for my allegations: Plaintiff entered Northeast Oklahoma Correctional Center on or about 7/30/17 where he was assigned to Unit 4 – Wing 3. About 3 years of being assigned to Unit 4 - Wing 3, the administration began moving gang members to the Unit. Plaintiff advised the Unit Treatment Team by way of his Case Manager, Defendant Kim Palmer, and Unit Supervisor Defendant Sgt. Jordan, that he was not a gang member and requested that he be assigned to a Unit not designated for gang members or “trouble makers”. Inmates in general population have been exposed to substantial risk of serious inmate on inmate violence. This substantial risk of serious harm has several causes, Defendants Sgt. Greene, Scott Crow, Lt. Gole, Casey Hamilton, and Crystal Wise, do not segregate mentally ill persons and members of rival gangs and general population inmates are housed and allowed to trespass in and on units on which they are not assigned, and they are forced to eat, shower, and exercise together. Inmates who threaten or even attack other inmates are not isolated or properly disciplined. Northeast Oklahoma Correctional Center is grossly under-staffed. At times there is only one guard on duty to supervise and control the 200 or more inmates in a unit. Defendants Scott Crow, Casey Hamilton, Lt. Gole and Crystal Wise do not provide for adequate staff at the Northeast Correctional Center, and they do not properly train the guards whom they hire to supervise inmates living areas, discipline inmates who misbehave, or respond to emergencies like inmate assaults. Defendants Scott Crow and Casey Hamilton have failed to implement adequate weapon control policies. As a result, inmates at Northeast Correctional Center have been able to threaten, assault and batter other inmates with weapons. Defendants Scott Crow and Casey Hamilton failed to implement adequate gang identification policies and as a result Plaintiff was mis-classified by the Security Threat Group Officer, Sgt. Greene as a “Crip” with such misclassification being entered into Plaintiff’s Jacket (files). Defendants Scott Crow and Casey Hamilton failed to implement adequate packing, inventorying, storage and securing bulk Plaintiff’s personal property, and as a result Defendants Blackward and Albert Everett failed to pack, inventory, store and

secure Plaintiff's property and transfer Plaintiff's property to him once he was transferred.

Claims

1. Claim 1:

- 1) List the right that you believe was violated: The deliberate indifference to the Substantial risk of serious inmate on inmate violence violated Plaintiff's rights and Constituted cruel and unusual punishment under the 8th Amendment to the United States Constitution.
- 2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)
Defendants Scott Crow, who is the Director of the Department of Corrections, and Defendant Casey Hamilton, who is the Warden of Northeast Oklahoma Correctional Center.
- 3) List the supporting facts: Defendants Scott Crow and Casey Hamilton failed to implement policies and adequate "Gang" and "Security Threat Group" identification and classification policies. This failure by these defendants resulted in Plaintiff being mis-identified and mis-classified as a "Crip" gang member and causing Plaintiff to be targeted by gang members for violence and eventually attacked.
- 4) Relief requested: (State briefly exactly what you want the court to do for you.)
I believe that I am entitled to the following Relief:
 - a) A declaration that the acts and omissions described herein violated Plaintiff's Rights under the Constitution and laws of the United States.
 - b) Compensatory damages in the the amount of \$150,000 against each Defendant, jointly and severally.
 - c) Punitive damages in the amount of \$500,000 against each Defendant.
 - d) A jury on all issues triable by Jury.
 - e) Plaintiff's costs in this Suit.
 - f) Any additional relief this Court deems just, proper, and equitable.

2. Claim 2:

- 1) List the right that you believe was violated: The deliberate indifference to the Substantial risk of serious inmate on inmate violence violated Plaintiff's rights

and Constituted cruel and unusual punishment under the 8th Amendment to the United States Constitution.

- 2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)
Defendant Sgt. Greene, who is the assigned Security Threat Group Officer at Northeast Oklahoma Correctional Center
- 3) List the supporting facts: Defendant Sgt. Greene, who is the assigned Security Threat Group Officer mis-identified and mis-classified Plaintiff as a member of the "Crip Gang".. This Defendant was made aware and had actual knowledge that Plaintiff was not a gang member of any kind , but caused such mis-identification and mis-classification to be entered into Plaintiff's files for Department of Corrections Classification. This mis-identification and mis-classification being entered into Plaintiff's Department of Corrections files resulted in Plaintiff being assessed as a member of a Security Threat Group (Crip Gang) causing Plaintiff to be targeted by gang members for violence and eventually attacked, beaten and robbed.
- 4) Relief requested: (State briefly exactly what you want the court to do for you.)
I believe that I am entitled to the following Relief:
 - a) A declaration that the acts and omissions described herein violated Plaintiff's Rights under the Constitution and laws of the United States.
 - b) Compesatory damages in the the amount of \$150,000 against each Defendant, jointly and severally.
 - c) Punitive damages in the amount of \$500,000 against each Defendant.
 - d) A jury on all issues triable by Jury.
 - e) Plaintiff's costs in this Suit.
 - f) Any additional relief this Court deems just, proper, and equitable

3. Claim 3:

- 1) List the right that you believe was violated: The deliberate indifference to the Substantial risk of serious inmate on inmate violence violated Plaintiff's rights and Constituted cruel and unusual punishment under the 8th Amendment to the United States Constitution.

- 2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.) Defendants Kim Palmer, who is the Case Manager of Plaintiff's and Defendant Sgt. Jordan, who is the Unit Shift Supervisor
- 3) List the supporting facts: Defendants Kim Palmer, who was the Case Manager of the Plaintiff's, and Defendant Sgt. Jordan, who was assigned as the unit Sgt. Supervisor were made aware and had actual knowledge that Plaintiff was not a gang member of any kind. Plaintiff requested of these defendants that the mis-identification and mis-classification of Plaintiff as a Crip and Gang member be removed from his files. In total disregard and with deliberate indifference these defendants failed to correct the mis-identification and mis-classification of Plaintiff and resulting in Plaintiff being targeted for violence and attacks and to be beaten and robbed.
- 4) Relief requested: (State briefly exactly what you want the court to do for you.) I believe that I am entitled to the following Relief:
 - a) A declaration that the acts and omissions described herein violated Plaintiff's Rights under the Constitution and laws of the United States.
 - b) Compensatory damages in the amount of \$150,000 against each Defendant, jointly and severally.
 - c) Punitive damages in the amount of \$500,000 against each Defendant.
 - d) A jury on all issues triable by Jury.
 - e) Plaintiff's costs in this Suit.
 - f) Any additional relief this Court deems just, proper, and equitable

4. Claim 4:

- 1) List the right that you believe was violated: The deliberate indifference to the Substantial risk of serious inmate on inmate violence violated Plaintiff's rights and Constituted cruel and unusual punishment under the 8th Amendment to the United States Constitution.
- 2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.) Defendants Scott Crow, who is the Director of the Oklahoma Department of Corrections, Defendant Casey Hamilton who is the Warden of Northeast Oklahoma Correctional Center, Defendant Crystal Wise, who is the Warden Designee, and Defendant Lt. Gole, who was the shift supervisor.

- 3) List the supporting facts: Defendants Scott Crow, who is the Director of the Oklahoma Department of Corrections, Defendant Casey Hamilton who is the Warden of Northeast Oklahoma Correctional Center, Defendant Crystal Wise, who is the Warden Designee, and Defendant Lt. Gole, who was the shift supervisor, all failed to segregate active and violent gang members and members of Security Threat Groups from general population inmates, failed to prevent violent gang members and members of Security Threat Groups from trespassing in and on units which they are not assigned to. These Defendants failed adequately to staff Northeast Correctional Center where more than one Correctional Officer can be assigned on duty to supervise and control the 200 or more inmates in a unit. As a result of these failures, on September 13th, 2019 between 4pm and 6pm, and again on September 14th, 2019 between 1pm and 2pm, Plaintiff was assaulted, beaten, and robbed by gang members who were not assigned to Plaintiff's assigned unit and who had illegally trespassed with no interference by staff. Plaintiff suffered significant injuries and had been robbed of a significant amount of his property.
- 4) Relief requested: (State briefly exactly what you want the court to do for you.) I believe that I am entitled to the following Relief:
- a) A declaration that the acts and omissions described herein violated Plaintiff's Rights under the Constitution and laws of the United States.
 - b) Compesatory damages in the the amount of \$150,000 against each defendant, jointly and severally.
 - c) Punitive damages in the amount of \$500,000 against each Defendant.
 - d) A jury on all issues triable by Jury.
 - e) Plaintiff's costs in this Suit.
 - f) Any additional relief this Court deems just, proper, and equitable

5. Claim 5:

- 1) List the right that you believe was violated: The deliberate indifference to the substantial risk of serious inmate on inmate violence violated Plaintiff's rights and constituted cruel and unusual punishment under the 8th Amendment to the United States Constitution and denial of Due Process under the 14th Amendment to the United States Constitution.

- 2) List the defendant(s) to this claim: (If you have sued more than one defendant, specify each person or entity that is a defendant for this particular claim.)
Defendants Sgt. Jordan, Unit Supervisor, Defendant Lt. Gole, Shift Supervisor, Defendant Scott Crow, Director of Oklahoma Department of Corrections, Defendant Officer Albertt Everett, Property Officer for Northeast Oklahoma Correctional Center, Defendant Officer Blackward, CTU Officer.
- 3) List the supporting facts: On September 13th, 2019 and on September 14th, 2019, Plaintiff was assaulted and attacked by a number of gang members. They were armed with shanks and beat Plaintiff, tried to stab him continually and robbed Plaintiff of a number of items totalling approximately \$1,598.00. The attack lasted about 5 minutes until Plaintiff was able to escape and get to the Unit Supervisor Sgt. Jordan. Plaintiff was then placed in handcuffs and finally escorted to central where Defendant Lt. Gole took photos of Plaintiff's injuries. Plaintiff was then placed in SHU pending investigation and where Plaintiff learned that he was still listed on the "Gang Database Sheet as a 'Crip'." On November 5th, 2019, Plaintiff was transferred from Northeast Oklahoma Correctional Center, still listed as a "Crip" in his Oklahoma Department of Corrections files. While in SHU, Plaintiff's property and personals was packed and placed in bulk inmate personal property. Defendants Scott Crow and Casey Hamilton failed to implement adequate Policies and practices for retrieving property stolen or robbed from inmates by inmates, failed to implement adequate packing, inventorying, storage and securing bulk inmate personal property, and as a result Defendants Albert Everett, who was the property Officer, and Officer Blackward, who was the CTU Officer failed to retrieve, pack, inventory, store and secure Plaintiff's property and transfer Plaintiff's property to him once transferred. As a result, Plaintiff is and has been deprived of the property listed below without due process of law, violating Plaintiff's rights under the 14th Amendment to the United States Constitution. The properties Plaintiff is missing and has been deprived of is as follows:
- a) Mp4 Player \$89.00
 - b) 375 Songs \$550.00
 - c) White Vapor Max 2019 Shoes \$200.00
 - d) Fan \$25.00
 - e) Power Strip \$18.00
 - f) Dickie Jeans- \$50.00
 - g) Dickie Shirt - \$45.00

- h) Personal Shirt 5, Socks 7 pairs, Facetowels 2, Bathtowels 2, Boxers 7 - \$150.00
 - i) Koss CL20 Headphones - \$50.00
 - j) Black Cross Necklace - \$150.00
 - k) Black Watch - \$75.00
- 4) Relief requested: (State briefly exactly what you want the court to do for you.)
- a) A declaration that the acts and omissions described herein violated Plaintiff's Rights under the Constitution and laws of the United States.
 - b) Compesatory damages in the the amount of \$150,000 against each defendant, jointly and severally.
 - c) Punitive damages in the amount of \$500,000 against each Defendant.
 - d) A jury on all issues triable by Jury.
 - e) Plaintiff's costs in this Suit.
 - f) Any additional relief this Court deems just, proper, and equitable

Exhaustion of Legal Remedies

Plaintiff Darron Fair used the Prisoner Grievence procedure available at Northeast Oklahoma Correctional Center and Joseph Harp Correctional Center to try to solve the problems. On 9-30-19 Plaintiff Darron Fair presented the facts relating to this complaint and on 11-14-19 Plaintiff Darron Fair presented the facts relating to the complaint with regards to the deprivation of Plaintiff's property. On both accounts Plaintiff Darron Fair was sent denial responses saying that the grievances had been denied. On 11-27-19 Plaintiff appealed the denial of the grievance and then on 11-28-19 the appeal of the denial of the grievance with regard to Plaintiff's property.

VI. Declarations

I declare under penalty of perjury that the foregoing is true and correct.

Darron Fair
Plaintiff's signature

7-22-20
Date

I further declare under penalty of perjury that I placed this complaint in the prison's legal mail system, with the correct postage attached, on the 23 day of July, 2020.

Darren Fair
Plaintiff's signature

7-22-20
Date